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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2717 OF 2007
IN
APPEAL NO. 843 OF 2005
IN
NOTICE OF MOTION NO. 2178 OF 2004
IN
SUIT NO. 1777 OF 2004

Salma Asgarali Makati & Ors. ... Appellants

Versus

Shabbir Shaikh Shamsuddin Pachorawala & Ors. ... Respondents

and

M/s. Raj Bucket Factory ... Applicants.

Mr. R. Khan & T. Zaidy i/by Zaidy & Co. for the Appellants.

Mr. Atul Damle for R. No. 1.

Mr. R.A. Dada, Sr. Counsel with Mr. Madhav J. Jamdar for Applicant.

Mr. V.G. Rane, rep. of Court Receiver present.

CORAM: F.I. REBELLO &
J.P.DEVADHAR, JJ.
DATED: AUGUST 10, 2007

P.C.:

. This is an application by the third party contending that the properties which are not subject matter of the suit and in which the said applicant has interest have been taken in possession by the receiver.

. The main appeal has already been disposed of.

Considering the above, in our opinion the motion as taken out would not be maintainable. It will however, be open to the applicant to move the learned Single Judge who is seized of the matter. The counsel for the applicant informs that the application for joinder in the suit has already been applied for. Therefore, it will be open to the applicant herein to make the same application before the learned trial court for consideration and whatever objections they may have. It is made clear that the issue is not the order passed by this court but whether the Receiver can take into possession the property, which the applicant's claims is not subject matter of the suit.

. With the above observations Motion disposed of. To enable the Applicant to move the learned trial court, status quo as of toady to be maintained for the period of 15 days from today.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**